

FILED

JUL 26 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA ,

Plaintiff - Appellee,

v.

ROBERTO ARMENTA-OROZCO,

Defendant - Appellant.

No. 04-50437

D.C. No. CR-03-03398-MJL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
M. James Lorenz, District Judge, Presiding

Submitted July 24, 2006^{**}

Before: ALARCÓN, HAWKINS and THOMAS, Circuit Judges.

Roberto Armenta-Orozco appeals from the district court's judgment imposing a 121-month sentence following his jury-trial conviction for conspiracy to distribute marijuana, possession of marijuana with intent to distribute, aiding

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

and abetting, and importation of marijuana, in violation of 18 U.S.C. § 2 and 21 U.S.C. §§ 841(a)(1), 846, 952, and 960. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Armenta-Orozco contends that the district court erred by imposing a five-year term of supervised release because the U.S. Sentencing Guidelines, including the supervised release provisions, are unconstitutional. This contention is unavailing in light of *United States v. Booker*, 543 U.S. 220, 258 (2005), and *United States v. Huerta-Pimental*, 445 F.3d 1220, 1221 (9th Cir. 2006).

AFFIRMED.